

City of Cupertino Locally Adopted Energy Standards Approval

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Action Requested of Efficiency Lead Commissioner: Lead Commissioner approval to bring this item before the full California Energy Commission for consideration and approval.

Business Meeting Date: March 20, 2013

Background: The California Public Resources Code establishes a process that allows cities or counties to adopt and enforce locally adopted energy standards that are more stringent than the statewide standards. This process, described in Section 25402.1(h)(2) and the *2008 Building Energy Efficiency Standards*, Title 24, Part 1, Section 10-106 (Standards), allow cities or counties to adopt new versions of the Standards before their statewide effective date (early adoption), require additional energy efficiency measures, or set more stringent energy budgets. The governing body of the city or county is required to make a determination that the standards are cost effective and adopt the findings at a public meeting. The city or county is required to file this determination of cost effectiveness with the Energy Commission. The Energy Commission must find that the standards will require the diminution of energy consumption levels permitted by the current Standards. The proposed local ordinance cannot be enforced until it is approved by the Energy Commission.

On November 20, 2012, the City Council of the City of Cupertino submitted an application for approval for their local energy standards (Ordinance No.12-2099) which will meet or exceed the *2008 Building Energy Efficiency Standards (Title 24, Part 6 of the California Building Code)*.

The ordinance requires that each building of a newly constructed residential building development that consists of nine homes or more, or multi-family building developments that consist of nine individual living units or more must be certified to have scored 50 points under the GreenPoint Rated (GPR) rating system developed by Build It Green (BIG) or be certified to the Silver level of the Leadership in Energy Efficient Design (LEED) for Homes rating system developed by U.S. Green Building Council (USGBC).

Additions and alterations made to existing multi-family buildings that have the following characteristics must score 50 points under the GPR system, be LEED Certified or be LEED Existing Building Operations and Maintenance Certified.

1. Increase the floor area by 50 percent and at least 35,000 square feet.
2. Replace or substantially alter the heating, ventilation and air conditioning (HVAC) system.
3. At least two of the following:
 - a. Alter the building envelope.
 - b. Alter the hot water system.
 - c. Alter the lighting system.

The ordinance requires that all newly constructed nonresidential buildings between 25,000 and 50,000 square feet (inclusive) be LEED Certified. Newly constructed nonresidential buildings larger than 50,000 square feet must be certified to the LEED Silver level.

Additions and alterations made to existing nonresidential buildings that have the following characteristics must either be LEED Certified or LEED Existing Building Operations and Maintenance Certified.

1. Be comprised of at least 35,000 square feet of floor area.
2. Replace or substantially alter the HVAC system.
3. At least two of the following:
 - a. Alter the building envelope.
 - b. Alter the hot water system.
 - c. Alter the lighting system.

As an alternative to the GPR or LEED rating systems, an applicant may propose to use an alternative rating system that is approved by the Chief Building Official and can be demonstrated to achieve all of the same energy efficiencies as required by the ordinance. The Building Official may allow an alternate standard if they find that the proposed alternative standard complies with all of the following:

1. Addresses a comprehensive scope of green building issues including energy efficiency, water efficiency, resource efficient materials, and healthy building practices;
2. Applies standards that are, when taken as a whole, as stringent as the GPR and LEED standards;
3. Includes a formalized certification process that incorporates third party verification; and
4. The project will advance the purposes of this ordinance.

The City of Cupertino has made a written commitment to enforce compliance with their locally adopted energy standards and Title 24, Part 6. Energy Commission staff has found that the application meets all requirements under Public Resources Code Section 25402.1(h)(2) and Section 10-106 of Title 24, Part 1 and recommends it for approval.

The complete application including the full proposed ordinance and cost effectiveness analysis will be made available on the Energy Commission web site upon Energy Commission approval of the proposed ordinance.

Justification for Action Requested: Energy Commission staff has found that the application meets all requirements under Public Resources Code Section 25402.1(h)(2) and Section 10-106 of Title 24, Part 1. Energy Commission staff believes that the City of Cupertino is to be commended for seeking to achieve the energy savings that result from their local energy ordinance.

Pros: If complied with as anticipated, the local ordinance will achieve additional energy savings beyond Title 24, Part 6. The City of Cupertino is endeavoring to be a national leader by adopting this ordinance and keeping ahead of the requirements of the statewide standards. Its approval indicates the Energy Commission's support for this goal and for active enforcement of both the local ordinance and the statewide standards.

Cons: A possible con is that builders will react negatively to the local variation of requirements or additional costs that may result from complying with the local ordinance.

What Happens Next: Staff will bring the ordinance to the March 20, 2013 Business Meeting for approval.